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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS

AND INTERFERENCES

Application Number: 09/615,473

Filing Date: July 13, 2000

Appellant(s): ESCOBOSA ET AL.

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GROUP 2600

Gary R. Jarosik

<u>For Appellant</u>

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/10/06 appealing from the Office
action mailed 9/25/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in
the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial
proceedings known to the examiner which may be related to, directly affect or be
directly affected by or have a bearing on the Board's decision in the pending
appeal:

US Application 10/151635, filed 5/20/02, still pending at the Board of
Appeals

US Application 10/411792, filed 4/11/03, rejection Affirmed by the Board of
Appeals 10/6/06. A copy of the Decision is attached hereto.

(3) Status of Claims

This appeal involves claims 54-62,64,66,68-72,74,76,80.

Claims 63,65,67,73,75 and 77 are objected to as being dependent upon a
rejected base claim, but would be allowable if rewritten in independent form

including all of the limitations of the base claim and any intervening claims. The

rejection of claims 65 and 75 has been withdrawn in view of the appellant's

arguments.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

NEW GROUND(S) OF REJECTION

Claims 54-57, 58-59, 61 and 70 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Chiloyan et al. (6,008,735).

Regarding **claim 54**, Chiloyan discloses a method for selecting a

command set for use in a remote control.

The remote control unit receives a user input at a keypad that functions to

specify a type of a consumer electronic device and a brand of the consumer

electronic device (col. 4, lines 21-39 and 54-56).

The user input is used to select a plurality of function code sets that have

been identified as being candidates for commanding operations of the specified

type of the consumer electronic device and the specified brand of the consumer

electronic device.

A user then interacts with the remote control to determine by experimentation which one set of the plurality of function code sets is appropriate for commanding operations (col. 2, lines 34-47; test or experiment for correct set to control the device).

Selecting a plurality of code sets as the candidates creates efficiency. The system takes less time in gathering the plurality of code sets as compared to gathering all stored code sets, and the user only has to experimentally go through the candidate code sets as opposed to the experimenting on all the code sets.

Chiloyan discusses the use of a computer (PC 26) to as a source of code sets to be downloaded to the remote control. Col. 5 lines 25-35. Chiloyan does not expressly state how the code sets are downloaded from the PC, however in view of the previous discussion offered by Chiloyan downloading code sets that would be candidates for the appliance being controlled would be the most efficient. By downloading only the candidate code sets, the communication of such codes sets would be less than communicating all possible code sets, and the user experimentation phase would be more efficient since the user would only have to test the candidate code sets as opposed to all possible code sets stored at the computer. In order to select candidate code sets, input (as discussed with respect to the remote controller) by the user would be needed. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have the user select candidate code sets for downloading

from the computer in the Chiloyan system since downloading only the candidate

sets increases the efficiency in the programming of the remote control.

Regarding **claims 55 and 56**, Chiloyan displaying to the user a list od

devices (Fig. 3E, TV BRAND; UNIDEN 74 and ZENITH 75).

Regarding **claim 57**, Chiloyan the subset of each of the plurality of

command sets includes at least a code for commanding a power operation (col.

9, lines 31—36, power command) of the specified type of the consumer

electronic device and the specified brand of the consumer electronic device.

Regarding **claim 58**, Chiloyan teaches arranging the downloaded plurality

of function code sets such that the plurality of command sets will be tested in an

order according to their install base (col. 2, lines 34-47; test or experiment for

correct set to control the device) when the user interacts with the remote control

to determine by experimentation (col. 2, lines 34-47; test or experiment for

correct set to control the device) which one of the plurality of function code sets is

appropriate for commanding operations of the specified type of the consumer

electronic device and the specified brand (col. 4, lines 21-39 and 54-56, brand) of

the consumer electronic device.

Regarding **claim 59**, Chiloyan teaches using the one of the plurality of

function code sets that is appropriate for commanding operations of the specified

type of the consumer electronic device and the specified brand of the consumer

electronic device to identify a set of extended command sets (Fig. 3G, TEST and

extended command SKIP; Fig. 5, TEST COMMAND 140) for use in commanding

extended operations of the specified type of the consumer electronic device and

the specified brand of the consumer electronic device (col. 4, lines 21-39 and 54-56, brand).

Regarding **claim 61**, Chiloyan teaches the plurality of function code sets are downloaded from the computer directly into the remote control (col. 5, lines 25-29, downloaded from computer 26).

Regarding **claim 70**, Chiloyan teaches the plurality of function code sets each comprise codes for driving an IR emitting diode of the remote control (col. 4, lines 40-52, an infrared transmitter 18).

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner. The rejection of claims 65 and 75 has been withdrawn.

(7) Claims Appendix

A correct copy of the appealed claims appears on page 12 of the Appendix to the appellant's brief. The minor errors are as follows: the copy of claims in the appendix is to include the appealed claims while the appendix actually includes copies of all claims. It is noted that claims 63,65,67,73,75 and 77 are not part of the appeal.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 62, 64, 66, 68 and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chiloyan et al. (6,008,735) in view of Foster (6,211,870).

Regarding **claim 62**, Chiloyan teaches displaying to the user a key layout for the remote control and a list of functions from the function code set appropriate for commanding operations of the specified type (col. 4, lines 21-39 and 54-56) of the consumer electronic device and the specified brand of the consumer electronic device and accepting user input to assign functions from the list of functions (Fig. 3G, TEST and SKIP).

But Chiloyan is silent on accepting user input to assign functions from the list of functions to the key layout, assignments of functions to the key layout being downloadable from the computer to the remote control to thereby configure the remote control to command operations of consumer electronic device.

However, Foster teaches, in the art of remote control system, accepting user input to assign functions from the list of functions to the key layout,

assignments of functions to the key layout (col. 8, lines 1-10, the key layout on

the screen 105 of the computer 100) being downloadable from the computer to

the remote control (Fig. 1, remote control 200) to thereby configure the remote

control to command operations of consumer electronic device for purpose of

providing enhanced user-friendly system.

Therefore, it would have been obvious to a person skilled in the art at the

time the invention was made to have included in Chiloyan the features of Foster

just discussed above because such features without unnecessarily searching for

desired key layout, thus providing enhanced user-friendly system.

Regarding **claim 64,66,68 and 69**, Chiloyan discloses the method as

recited in claim 62, comprising presenting a graphical user interface (Fig. 3E, TV

BRAND; UNIDEN 74 and ZENITH 75); the specified type of the consumer

electronic device and the specified brand of the consumer electronic device (Fig.

3E, TV BRAND; UNIDEN 74 and ZENITH 75). But Chiloyan does not teach a

graphical user interface having drag and drop capabilities for use in assigning

functions from the list of functions to the key layout.

However, Foster teaches, in the art of graphic user interface system, a

graphical user interface having drag and drop capabilities for use in assigning

functions from the list of functions to the key layout (Fig. 11, drag and drop from

the list 114) for the purpose of providing enhanced user-friendly system.

Therefore, it would have been obvious to a person skilled in the art at the

time the invention was made to have included in Chiloyan the features of Foster

just discussed above because such features without unnecessarily searching for desired key layout, thus providing enhanced user-friendly system.

Claims 60, 71-72 and 80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chiloyan et al. (6,008,735) in view of Kemink (WO0017738).

Regarding **claim 60**, Chiloyan discloses the method as recited in claim 54, wherein Chiloyan is silent on the user input is received at the computer via an Internet connection (lines 28-31, page 4; lines 10-15, page 6, Web page associated with internet based service; lines 3-5, page 6, computer associated with the internet access device 210). See above discussion of Chiloyan with regards to claim 54.

However, Kemink teaches, in the art of network system, the user input is received at the computer via an Internet connection (lines 28-31, page 4, Web associated with internet based service; lines 3-5, page 6, computer associated with the internet access device 210) for purpose of searching the larger database.

Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to have included in Chiloyan the features of Kemink just discussed above because such features without unnecessarily searching the limited database, thus searching a larger database.

All subject matters except displaying at a Web site a list comprising a plurality of types and brands of consumer electronic devices in claim 71 are

discussed above with regards to claim 54.   However, Chiloyan continues to

disclose a list comprising a plurality of types and brands of consumer electronic

devices (Figs. 3C and 3E, types and brands). Likewise, Kemink in the art of

network system, displaying at a Web site a list (lines 10-15, Web page) for

purpose of searching the larger database.

Therefore, it would have been obvious to a person skilled in the art at the

time the invention was made to have included in Chiloyan the features of Kemink

just discussed above because such features without unnecessarily searching the

limited database, thus searching the larger database.

Therefore rejection of the subject matters expressed in claim 71 are met

by references and associated arguments applied to rejection of claim 54 and to

rejection provided in the previous paragraph.

Regarding **claim 72**, Chiloyan discloses arranging the downloaded

plurality of function code sets such that the plurality of command sets will be

tested in an order according to their install base (col. 2, lines 34-47; test or

experiment for correct set to control the device) when the user interacts with the

remote control to determine by experimentation (col. 2; lines 34-47; test or

experiment for correct set to control the device) which one of the plurality of

function code sets is appropriate for commanding operations of the specified type

of the consumer electronic device and the specified brand (col. 4, lines 21-39 and

54-56, brand) of the consumer electronic device.

Regarding **claim 80**, Chiloyan discloses the plurality of function code sets

each comprise codes for driving an IR emitting diode of the remote control (col.

4, lines 40-52, an infrared transmitter 18).

Claims 74,76 and 78-79 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Chiloyan et al. (6,008,735) in view of Kemink

(WO0017738) as applied to claim 71 above, and further in view of Foster.

Regarding **claim 74,76,78 and 79**, Chiloyan discloses the method as

recited in claim 71, comprising presenting a graphical user interface (Fig. 3E, TV

BRAND; UNIDEN 74 and ZENITH 75); the specified type of the consumer

electronic device and the specified brand of the consumer electronic device (Fig.

3E, TV BRAND; UNIDEN 74 and ZENITH 75). But Chiloyan in view of Kemink

does not teach a graphical user interface having drag and drop capabilities for

use in assigning functions from the list of functions to the key layout.

However, Foster teaches, in the art of graphic user interface system, a

graphical user interface having drag and drop capabilities for use in assigning

functions from the list of functions to the key layout (Fig. 11, drag and drop from

the list 114) for the purpose of providing enhanced user-friendly system.

Therefore, it would have been obvious to a person skilled in the art at the

time the invention was made to have included in Chiloyan in view of Kemink the

features of Foster just discussed above because such features without

unnecessarily searching for desired key layout, thus providing enhanced user-

friendly system.

(10) Response to Argument

The appellant argues that Chiloyan's computer does not receive a user

input that specifies a type of electronic device (appliance). This argument is

moot in view of the new grounds of rejection in section 6 above.

Regarding the rejection of claim 71, the appellant additionally argues that

Kimink only downloads a specific or single command set and as such would

negate any teachings of Chiloyan. Chiloyan teaches that user experimentation

on a group of candidate sets is advantageous in efficiently programming the

system and reducing frustration. Kimink, in no way teaches away from this, there

is no disclosure in Kimink that says such a system will not work with a computer.

Kimink is used to teach that not only a single PC (as suggested by Chiloyan) can

be used to download commands, but the internet's great resources can

additionally be used in downloading command sets.

The appellant argues that nothing from Chiloyan nor Kemink discloses

Web site mapping assignments for the remote control. Kemink teaches

downloading a code set from a Web site. Since the code set associates keys on

the remote controller with signals to be transmitted to the appliance it is

interpreted that Kemink does in fact disclose using a Web site to gather mapping

assignments for the remote control.

(11) Related Proceeding(s) Appendix

Copies of the court or Board decision(s) identified in the Related Appeals

and Interferences section of this examiner's answer are provided herein.

For the above reasons, it is believed that the rejections should be sustained.

This examiner's answer contains a new ground of rejection set forth in section **(9)** above. Accordingly, appellant must within **TWO MONTHS** from the date of this answer exercise one of the following two options to avoid *sua sponte* **dismissal of the appeal** as to the claims subject to the new ground of rejection:

(1) **Reopen prosecution.** Request that prosecution be reopened before the primary examiner by filing a reply under 37 CFR 1.111 with or without amendment, affidavit or other evidence. Any amendment, affidavit or other evidence must be relevant to the new grounds of rejection. A request that complies with 37 CFR 41.39(b)(1) will be entered and considered. Any request that prosecution be reopened will be treated as a request to withdraw the appeal.

(2) **Maintain appeal.** Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41. Such a reply brief must address each new ground of rejection as set forth in 37 CFR 41.37(c)(1)(vii) and should be in compliance with the other requirements of 37 CFR 41.37(c). If a reply brief filed pursuant to 37 CFR 41.39(b)(2) is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under 37 CFR 41.39(b)(1).

Extensions of time under 37 CFR 1.136(a) are not applicable to the TWO
MONTH time period set forth above. See 37 CFR 1.136(b) for extensions of time
to reply for patent applications and 37 CFR 1.550(c) for extensions of time to
reply for ex parte reexamination proceedings.


Respectfully submitted,

Brian Zimmerman
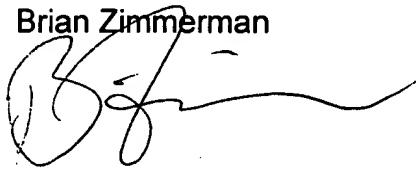
**A Technology Center Director or designee must personally approve
the new ground(s) of rejection set forth in section (9) above by signing
below:**

Acting Director
TC 2600

Conferees:
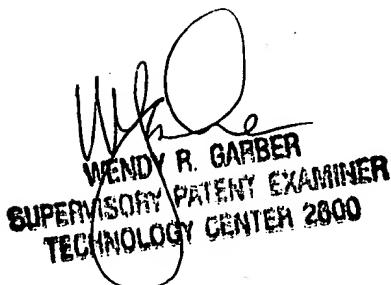
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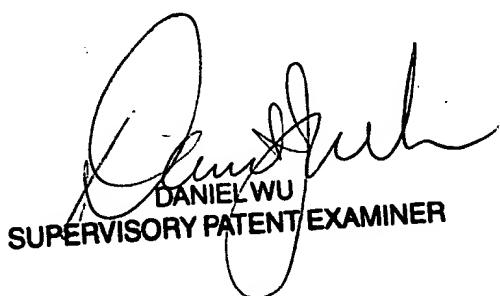
DANIEL WU
SUPERVISORY PATENT EXAMINER